

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**ARTHUR L. BEEN JR.,**

**Plaintiff,**

**v.**

**RANDALL R. EDWARDS et al.,**

**Defendants.**

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**Case No. CIV-14-203-F**

**REPORT AND RECOMMENDATION**

Plaintiff Arthur L. Been Jr., a state prisoner appearing pro se, filed his 42 U.S.C. § 1983 complaint without submitting any payment to the Court. *See* Doc. No. 1. The filing fee for this civil rights complaint is \$400, as noted on the Court's current fee schedule. A plaintiff must either pay this filing fee or submit an application requesting leave to proceed *in forma pauperis*—i.e., to proceed without full prepayment and with a reduced filing fee of \$350.

Mr. Been submitted an application for leave to proceed *in forma pauperis* together with his complaint, *see* Doc. No. 3. His unsigned application, however, failed to state any financial information thereon and did not include the sworn affidavit that is necessary for the Court to determine Mr. Been's financial circumstances. In addition, Mr. Been's application lacked the required certified copy of his six-month institutional account statement(s) certificate, executed by an authorized officer of the relevant penal institution(s). *See* 28 U.S.C. § 1915(a)(2); LCvR 3.3(b), (c).

On March 5, 2014, the undersigned, in view of the lack of payment of a filing fee for this case, ordered Mr. Been to either pay the \$400 filing fee or file a new application seeking leave to proceed *in forma pauperis* no later than March 27, 2014. *See* Order, Doc. No. 10. Mr. Been was advised: “Failure to comply with this Order may result in the dismissal of this action.” *See id.* at 2. This Order was mailed to Mr. Been at Lexington Assessment & Reception Center in Lexington, Oklahoma, to the most recent address supplied by Mr. Been.

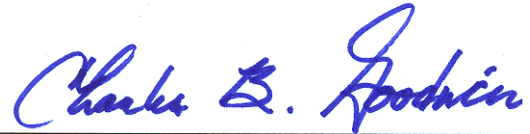
As of the present date, Mr. Been has not paid the filing fee, filed a new *in forma pauperis* application, or requested an extension of time to comply with the deadline. The undersigned therefore recommends that Mr. Been’s action be dismissed without prejudice to refiling. The Clerk of Court is directed to mail a copy of this Report and Recommendation to Mr. Been. If the action is dismissed, Plaintiff’s pending motion (Doc. No. 4) should be denied.

#### NOTICE OF RIGHT TO OBJECT

Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by April 24, 2014, in accordance with 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72. Plaintiff further is advised that failure to timely object to this Report and Recommendation would waive the right to appellate review of both factual and legal issues contained herein. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the undersigned in the present case.

ENTERED this 3rd day of April, 2014.

A handwritten signature in blue ink, reading "Charles B. Goodwin", is positioned above a horizontal line.

CHARLES B. GOODWIN  
UNITED STATES MAGISTRATE JUDGE